IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Criminal Misc. Application No. 557 of 2006

Sanjeev Kumar Gupta S/o Shri Jagdish Saran Gupta
R/o Mohalla Jwalanagar
Thana Civil Lines
District Rampur .... Applicant

Vs

1. State of Uttaranchal
2. Bhagwan Swaroop Gupta
   S/o Shyam Lal Gupta
   R/o Indira Colony, Khatari
   Ramnagar, District Nainital .... Respondents

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the applicant – Sri Sanjeev Kumar Gupta praying therein for quashing the proceedings in Criminal Case No. 346 of 2005 State Vs Sanjeev Kumar under Section 363 I.P.C. pending in the court of Judicial Magistrate, Ramnagar, District Nainital.

2. Brief facts reveals from the perusal of the material available on record that the First Information Report was lodged against the accused persons including the applicant for an offence under Section 363 I.P.C. The police investigated the matter and then submitted the chargesheet against the accused persons including the petitioner.

3. The petitioner has therefore, challenged the proceedings of the aforesaid criminal case by way of this petition.

4. Heard Sri Anuragh Bisaria, learned counsel for the applicant, learned A.G.A. for the State and perused the record.

5. I do not find by abuse of process of the court in this case. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence. While exercising the jurisdiction under Section 482 Cr.P.C., I am also not supposed to pre-judge the police papers and any discrepancies therein. The allegations made in the First Information Report and the material collected by the Investigating Officer during the investigation are referred in the chargesheet and prima facie makes out the offence. Therefore, I do not find any justification for quashing the proceedings by appreciating the evidence at this stage.

6. Therefore, the petition lacks merit and is liable to be dismissed.

7. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

18.07. 2006
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